

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>EDWARD AND ANN GASSMAN,</p> <p>v.</p> <p>Respondent:</p> <p>SUMMIT COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 66056</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on January 21, 2016, Diane M. DeVries and Sondra W. Mercier presiding. Petitioner, Mr. Edward Gassman, appeared *pro se* on behalf of Petitioners. Respondent was represented by Frank Celico, Esq. Petitioners are protesting the 2015 actual value of the subject property.

The parties stipulated to admitting Michael W. Peterson, Certified General Appraiser with the Summit County Assessor’s Office, as an expert witness at hearing.

Subject property is described as follows:

**934 Ptarmigan Trail, Unincorporated Summit County
Summit County Schedule No. 6509847**

The subject property consists of a 2.85-acre vacant residential site located proximate to the Town of Silverthorne. The property has privately maintained 4-wheel drive access, very steep topography, excellent views, and minimal tree cover. The subject overlooks Interstate 70 (“I-70”) and is listed by the Assessor as being “on highway.” Access to the Ptarmigan Loop trail also impacts the property as an unrecorded trail easement.

Petitioners are requesting an actual value of \$98,873 for the subject property for tax year 2015. Respondent assigned a value of \$172,426 for the subject property for tax year 2015 but is recommending a reduction to \$135,351.

Larry Stone, CPA, presented rebuttal testimony on behalf of Petitioners. Mr. Stone walked the Board through photographs of Respondent's sales and compared them to the subject. Respondent's Sale 1 was identified as a private, flat site located away from the interstate, with no foot traffic. Sale 2 was identified as a sloping property located away from I-70 near the Dillon core area. Homes have been built on both Sales 1 and 2. Sale 3 was shown to be a flat property that is still vacant. All three properties offer easier access than the subject according to Mr. Stone. Petitioners' witness referred to Respondent's Exhibit A, page 10, for support in the determination of value based on a decline in adjusted sale prices between the 2013 and 2015 reappraisal.

Petitioners presented no comparable sales data. Mr. Gassman contends that there are no truly comparable sales for comparison with the subject, which offers only one positive attribute of a view; and numerous negative attributes such as size, location, difficult access, poor road quality, steepness, building site difficulties, water well suitability, septic field suitability, constant foot traffic for public trail access, and stigma for being proximate to the location of a fatal accident.

Petitioners are requesting that the Board take a "common sense approach" and conclude to an actual value of \$98,873 for the subject property for tax year 2015.

Respondent presented a value of \$135,351 for the subject property based on the market approach and the use of present worth discounting. Mr. Peterson, Respondent's only witness, presented three comparable sales ranging in sale price from \$99,999 to \$160,000 and in size from 0.50 to 0.64 acres. The sales were adjusted for lot size, access, topography, scenic view, and impact from highway and easement factors. Adjustment factors were determined using linear regression analysis and paired sales analysis. After adjustments were made, the sales indicated a range of \$151,512 to \$165,183, with a median of \$161,229. Mr. Peterson discounted the median indicated value based on a two-year sellout period and a discount rate of 12.5% for a discount factor of 0.8395, to indicate a value of \$135,351 for the subject. Mr. Peterson testified that the sales statistics shown on page 10 of Respondent's exhibit A represented all types of vacant land located throughout the County.

Respondent assigned a value of \$172,426 for the subject property for tax year 2015 but is recommending a reduction to \$135,351.

The Board is required as part of its decision-making function to hear and consider the evidence, often conflicting, presented to it during the course of appeal hearings. The legal duty of the Board is to weigh the evidence presented and to resolve any conflicts in the evidence presented to it. The Board is then required to make its findings based on the evidence it finds most credible and persuasive. It must then apply the facts as it finds them to the applicable law in order to come to its decision. Both the Colorado Constitution (Article X) and Statute (Section 39-1-103(5)(a), C.R.S.) require consideration of the cost, market and income approaches to value vacant land. Respondent has determined that only the market approach is applicable in the valuation of the subject and the Board concurs.

In this case, both parties presented evidence to indicate that the subject is impacted by its proximity to I-70, extremely steep topography on portions of the site, limited 4-wheel drive access,

and foot traffic across the property to access the Ptarmigan Loop trail. Respondent applied the market approach to value the subject based on three sales that occurred during the extended base period. All three sales received significant adjustment for size, access, topography, view, highway location and trail easement. Petitioners contend that there are no sales of properties comparable to the subject, and presented no sales or factual support for alternative adjustment. Petitioners provided insufficient data or analysis to support an adjustment for stigma due to a past fatal accident proximate to the subject.

The Board was convinced that sufficient probative evidence and testimony was presented to prove that the subject property should be set at Respondent's recommended reduced value. The Board concludes that the 2015 actual value of the subject property should be reduced to Respondent's recommended value of \$135,351.

ORDER:

Respondent is ordered to reduce the 2015 actual value of the subject property to \$135,351.

The Summit County Assessor is directed to change their records accordingly.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

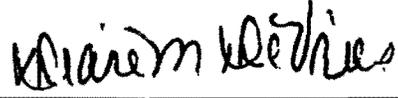
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 18th day of February, 2016.

BOARD OF ASSESSMENT APPEALS

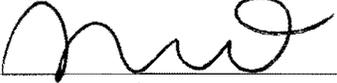


Diane M. DeVries



Sondra W. Mercier

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.



Milla Lishchuk

